

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT DONALD DAVIS,
Plaintiff,
v.
WALMART INC, ET AL.,
Defendants.

Case No. 1:22-cv-01381-ADA-CDB
ORDER REQUIRING PLAINTIFF TO
SHOW CAUSE WHY SANCTIONS
SHOULD NOT BE IMPOSED FOR
PLAINTIFF'S FAILURE TO PROSECUTE
THIS ACTION AND TO COMPLY WITH
THE COURT'S ORDERS
ECF No. 18

THREE-DAY DEADLINE

Defendants removed this case to federal court on October, 26, 2022. (ECF No. 1). The following day, the Court entered an Order setting a mandatory scheduling conference. (ECF No. 6). The Order directed Plaintiff to “diligently pursue service of summons and complaint” and “promptly file proofs of service.” The Order further advised Plaintiff that failure to diligently prosecute this action “may result in the imposition of sanctions, including the dismissal of unserved defendants.”

On March 28, 2023, the parties convened for a scheduling conference after which the Court entered a scheduling order. (ECF Nos. 16, 17). That same day, the Court issued an order to show cause requiring Plaintiff to report in writing why defendant Angie Carreles, who has not answered or appeared in this action, should not be dismissed for Plaintiff’s failure to timely effect service and file proof of service. (Doc. 18, *citing* Rule 4(m), Fed. R. Civ. P). Plaintiff has

1 failed to timely comply with the order to show cause. Accordingly, on April 7, 2023, the Court
2 issued findings and recommendations to the assigned district judge that Defendant Carreles be
3 dismissed from the action. (ECF No. 19).

4 Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these
5 Rules or with any order of the Court may be grounds for imposition by the Court of any and all
6 sanctions . . . within the inherent power of the Court.” The Court has the inherent power to
7 control its docket and may, in the exercise of that power, impose sanctions where appropriate,
8 including dismissal of the action. Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir.
9 2000).

10 Based on the foregoing, IT IS HEREBY ORDERED that within three (3) days of entry
11 of this order, Plaintiff shall show cause in writing why sanctions should not be imposed for the
12 failure to file proofs of service in this action and diligently prosecute this action in preparation of
13 the scheduling conference, and for the failure to timely respond to the Court’s March 28, 2023
14 order.

15 Plaintiff is advised that failure to comply with this order will result in the issuance of
16 sanctions, including monetary sanctions and a potential recommendation that this action be
17 dismissed.

18 IT IS SO ORDERED.

19 Dated: April 7, 2023


20 UNITED STATES MAGISTRATE JUDGE

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